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HIGH COURT OF JUDICATURE CHHATTISGARH: BILASPUR

DIVISION BENCH

CORAM : HON'BLE SHRI S.R. NAYAK, CJ
& HON'BLE SHRI D.R. DESHMUKH, J.

Writ Petition No.4221 of 2006

PETITIONER : Chhattisgarh Chamber of Commerce & Industries having its office at Jute Mill Road, Kabir Chowk, Raigarh through Ghanshyam Bansal, S/o Shri Dulichand Bansal, aged about 55 years, R/o Gandhi Ganj, Raigarh (Chhattisgarh), having Authorized under letter of authority dated 15-04-06 under Resolution dated 15-04-2006 of Chhattisgarh Chamber of Commerce & Industries, Raipur Unit at Raigarh (Chhattisgarh)

VERSUS

RESPONDENTS

1. State of Chhattisgarh through Secretary, Department of Public Works, Mantralaya, Dau Kalyan Singh Bhawan, Raipur (Chhattisgarh)
2. Chief Engineer, National Highway & Bridge Construction, Public Works Department, Raipur (Chhattisgarh)
3. Divisional Railway Manager, South East Central Railway, Bilaspur Division, Bilaspur
4. Chief Bridge Engineer, South East Central Railway, Bilaspur Division, Bilaspur
5. Collector, District Raigarh (Chhattisgarh)

Present: Shri Manindra Shrivastava, learned Sr. Advocate with Shri Amrito Das, learned counsel for the petitioner.

Shri Vinay Harit, learned Dy. A.G. with Shri Yashwant Singh, learned G.A. for respondents No. 1,2 and 5.

Shri Vinay Harit, learned Sr. Advocate with Shri Naryayan Shrivastava, learned counsel for respondents No. 3 and 4.

ORAL ORDER

(Passed on 10th August, 2006)

The following oral order of the Court was passed by

S.R. NAYAK, CJ .

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This writ petition is filed by Chhattisgarh Chamber of Commerce & Industries as a Public Interest Litigation. It is complained that the proposal to construct Railway Over-Bridge at Sarangarh railway cross at Raigarh is neither financially expedient nor technically feasible. In paragraphs 5.9, 5.10 and 5.11 of the writ petition it is contended as follows:

> "5.9 That, it is pertinent to mention here that because of construction of ROB, it is likely to incur expenditure to the tune of Rs. 11.43 Crores as is clear from the letter dated 2-12-2004 of Collector Raigarh to SEC Rly (Annexure P-4). On the contrary, if there is serious consideration of alternative RUB to be constructed at the same place, it will serve public purpose in many ways. Firstly, construction of RUB incurs too less expenditure as compared to the construction of ROB. As against an expected expenditure of Rs. 11.43 Crores at present, which is likely to be increased in future, construction of RUB will not require expenditure of more than Rs. 2 Crores. This estimate is being made on the basis of information taken from an Architect/Engineer. Moreover, the construction of RUB will be of great convenience to the poor people who will be using the under bridge as most of them are not having 4 wheelers or 2 wheelers and they are either pedestrians-people walking on the road, bullock-carts, handcrafts etc. There are several RUBs, which are successfully operating at many places, e.g. Raipur, Nagpur, Bhopal, Jabalpur etc., which are very conveniently managing much more traffic than what exists at Raigarh at Sarangarh Railway Crossing. **Saving of public exchequer is a very relevant and material issue.**
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> 5.10 That, the grievance of the petitioner is that the proposal for feasibility of construction of RUB has never been given a serious consideration at all at any level

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whether it be at political level or whether it be at technical level. Petitioner is sure that if the feasibility examination of under bridge at Sarangarh Railway crossing is taken up, even the Railway authorities may agree to such a proposal because in the matter of construction of ROB both Railway as well as the State Government have to bear the costs in equal proportions as is clearing from the letters annexed hereinabove.

5.11 That, construction of bridges, roads, culverts etc., is meant for public convenience. While the interest of the public, which is going to use those facilities, which is paramount, coupled with the interest of public exchequer, warns a due consideration of petitioner's representation at appropriate level by the Government. However, instead of considering the proposal in its proper perspective, ignoring the demand of the public at large, respondents have proceeded to collect material for construction of ROB even though the Railway has again and again issued letters that without due sanction and approval construction should not be started. One such letter dated 19-06-2006 is filed herewith as **ANNEXURE P-5."**

(2) At the threshold, it needs to be noticed that the subject matter brought before the Court should squarely fall within the domain of the technocrats and other officials who are supposed to be experts in the field and the decision taken by them cannot lightly be interfered with by the Court, obviously because, the Court is ill-suited to appreciate such decision and sit in judgment over such decision as a supreme technocrat/ expert. We have one more reason not to entertain this writ petition at this stage, because, any interference has the effect of haulting and postponing the construction of over-bridge and if it happens, it is trite, it will be prejudicial to the public interest in general and travelling public in

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particular. Furthermore, nothing is placed before the Court which could convince us that the construction of over-bridge at Sarangarh railway cross at Raigarh would be against the public interest. For all these reasons, we dismiss the writ petition. No costs.

Sd/-
Chief Justice

Sd/-
Dilip Raosaheb Deshmukh
Judge